

HOUSE BILL No. 1251

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-3.1-34.

Synopsis: Tax credit for hiring new employees. Provides a credit against state tax liability to a small business for hiring a sufficient number of new employees after December 31, 2014, and before January 1, 2018: (1) who are receiving unemployment benefits or have exhausted their unemployment benefits; or (2) who are former members of the armed services of the United States or the National Guard.

Effective: January 1, 2015 (retroactive).

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January 13, 2015, read first time and referred to Committee on Ways and Means.



First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1251

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JANUARY 1, 2015 (RETROACTIVE)]:

4 **Chapter 34. Hoosier Job Creation Tax Credit**

5 **Sec. 1. This chapter applies only to taxable years beginning after**
6 **December 31, 2014.**

7 **Sec. 2. The following definitions apply throughout this chapter:**

8 (1) "Base employment period" of a small business refers to
9 the six (6) month period beginning January 1, 2013. However,
10 if a small business began doing business in Indiana after
11 January 1, 2013, the term refers to the initial period before
12 January 1, 2015, in which the small business employed
13 full-time employees in Indiana in the trade or business of the
14 small business, not to exceed six (6) months.

15 (2) "Department" refers to the department of state revenue or



the department of insurance, whichever is obligated to administer the tax against which a tax credit is applied.

(3) "Full-time employee" means an individual who:

(A) is employed for consideration for at least thirty-five (35) hours each week or who renders any other standard of service generally accepted by custom or specified by contract as full-time employment; and

(B) earns income for service described in clause (A) that is subject to withholding under IC 6-3 (before the application of any earned income tax credit) in an amount that is the equivalent of at least two hundred percent (200%) of the federal hourly minimum wage in effect during the week of employment.

(4) "Qualified new employee" refers to a full-time employee described in section 8 of this chapter.

(5) "Small business" refers to a small business (as defined in IC 5-28-2-6) that existed and employed full-time employees in Indiana in its trade or business before January 1, 2015.

(6) "State tax liability" means a taxpayer's total tax liability that is incurred under:

(A) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(B) IC 6-5.5 (the financial institutions tax); and

(C) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

(7) "Tax credit" refers to a tax credit granted by this chapter against state tax liability.

(8) "Taxpayer" means an individual or entity that has state tax liability.

Sec. 3. (a) This section applies only to taxable years beginning after December 31, 2014, and before January 1, 2018.

(b) For each taxable year to which this section applies, a small business that employs a qualified new employee in Indiana during the taxable year is eligible for a tax credit against the small business's state tax liability for the taxable year, if, on average, the small business employed a greater number of full-time employees in Indiana during the taxable year than the small business employed in Indiana, on average, in the small business's base employment period.

Sec. 4. The amount of the tax credit provided by this chapter for



a taxable year is equal to the lesser of the following:

(1) Three thousand dollars (\$3,000) multiplied by the lesser of:

(A) the average number of qualified new employees that the small business employed in Indiana during the taxable year in the trade or business of the small business; or

(B) the average number of additional full-time employees that the small business employed in Indiana in the trade or business of the small business during the taxable year in excess of the average number of full-time employees that the small business employed in Indiana in its trade or business during the small business's base employment period.

(2) One hundred thousand dollars (\$100,000).

However, if the taxable year of the small business is less than twelve (12) months, the amounts of three thousand dollars (\$3,000) and one hundred thousand dollars (\$100,000) are reduced in proportion to the amount by which the taxable year of the small business is shortened.

Sec. 5. (a) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year in which the credit is initially claimed, the taxpayer may carry the excess over to not more than three (3) subsequent taxable years. Each time the credit is carried forward to a succeeding taxable year, the credit is reduced by the amount that was used as credit during the immediately preceding year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

Sec. 6. If a pass through entity does not have state tax liability for a taxable year but is otherwise eligible to claim the credit provided by this chapter, a shareholder, partner, fiduciary, or member of the pass through entity is entitled to a share of the tax credit equal to:

(1) the amount of the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, fiduciary, or member is entitled.

Sec. 7. To receive the tax credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall maintain the records required by the department



1 for the period specified by the department to substantiate the
 2 taxpayer's eligibility for a tax credit.

3 **Sec. 8. To be a qualified new employee in a particular taxable**
 4 **year, an individual must meet all the following criteria:**

5 (1) Be initially hired into a position as a full-time employee by
 6 the small business for the first time after December 31, 2014.

7 (2) Be, at the time the small business initially employs the
 8 individual after December 31, 2014:

9 (A) an individual who is receiving state or federal
 10 unemployment insurance benefits or has exhausted the
 11 individual's eligibility for state or federal unemployment
 12 insurance benefits since last becoming unemployed; or

13 (B) a former member of the military services of the United
 14 States who served on active duty in any branch of the
 15 armed forces of the United States or National Guard and
 16 who at no time received a discharge or separation under
 17 other than honorable conditions, except corrected
 18 separation or discharge to read "honorable" as evidenced
 19 by appropriate records presented from the United States
 20 Department of Defense or appropriate branch of the
 21 military service;

22 or both.

23 (3) Is not an individual who was employed by a related
 24 member (as defined in IC 6-3.1-13-8) of the small business (or
 25 another business entity that would be a related member (as
 26 defined in IC 6-3.1-13-8) if the other entity were a
 27 corporation) in the period beginning twelve (12) months
 28 before the date on which the individual is initially employed
 29 by the small business.

30 (4) Is not a child, grandchild, parent, or spouse (other than a
 31 spouse who is legally separated from the individual) of any
 32 individual:

33 (A) who is an employee of the small business; or

34 (B) who has a direct or an indirect ownership interest of at
 35 least five percent (5%) in the profits, capital, or value of
 36 the small business or a related member (as defined in
 37 IC 6-3.1-13-8) of the small business (or another business
 38 entity that would be a related member (as defined in
 39 IC 6-3.1-13-8) if the other entity were a corporation). An
 40 ownership interest shall be determined in accordance with
 41 Section 1563 of the Internal Revenue Code and regulations
 42 prescribed under Section 1563 of the Internal Revenue



Code.

Sec. 9. The tax credit to which a taxpayer would otherwise be entitled under this chapter in a taxable year is reduced by the sum of the following tax credits received for the same qualified new employee:

(1) The economic development for a growing economy tax credits (IC 6-3.1-13) allowable to the taxpayer in a taxable year and attributable to the same employee for which a tax credit would otherwise be granted under this chapter.

(2) The Hoosier business investment tax credits (IC 6-3.1-26) allowable to the taxpayer in a taxable year and attributable to the same employee for which a tax credit would otherwise be granted under this chapter.

(3) The amount of federal or state training grants used in the taxable year to train an employee for which a tax credit would otherwise be granted under this chapter.

Sec. 10. A small business (or if section 6 of this chapter applies, a shareholder, partner, fiduciary, or member of a small business) forfeits fifty percent (50%) of the amount of the tax credits attributable to the employment of a qualified new employee, if within eighteen (18) months after the qualified new employee was initially hired:

(1) the qualified new employee is terminated, laid off, or otherwise reclassified to a position that is not a full-time employment position with the small business; or

(2) the position created for the qualified new employee is eliminated.

For purposes of this section, the replacement, within a reasonable time as determined by the department, of a qualified new employee with another qualified new employee shall be treated as continuous employment of a qualified new employee from the date of the hiring or rehiring of the initial qualified new employee.

Sec. 11. The amount due to the department from a forfeiture under section 10 of this chapter shall be treated as due to the state on the date the taxpayer's annual return or informational return is due for the taxable year in which the reduction in employment occurred.

Sec. 12. (a) Employment levels shall be determined using the total number of employees reported by the small business on the quarterly payroll report submitted by the small business to the department of workforce development. The department of workforce development shall give the information to the



1 department on the schedule and in the form requested by the
2 department.

3 (b) A small business shall use the method prescribed by the
4 department to determine the average number of full-time
5 employees or qualified new employees that the small business
6 employed during the small business's base employment period.

7 Sec. 13. The department may adopt rules under IC 4-22-2,
8 including emergency rules in the manner provided under
9 IC 4-22-2-37.1, to implement this chapter.

10 Sec. 14. This chapter expires January 1, 2024.

11 SECTION 2. An emergency is declared for this act.

